



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

UNITED STATES OF AMERICA §

v. §

JULIO CESAR JACOBO §

2:03-CR-0047 (03)

ORDER OVERRULING OBJECTIONS,
ADOPTING REPORT AND RECOMMENDATION,
ADOPTING SUPPLEMENTAL REPORT AND RECOMMENDATION, and
DENYING MOTION TO VACATE, SET ASIDE OR CORRECT SENTENCE

Came for consideration the motion to vacate, set aside or correct sentence by a person in federal custody filed by defendant JULIO CESAR JACOBO. On August 28, 2007, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that the instant motion be denied except for defendant's allegation of ineffective assistance of counsel as it related to counsel's alleged failure to file a direct appeal. On September 17, 2007, the United States Magistrate Judge issued a Supplemental Report and Recommendation in this cause, recommending therein that defendant's allegation of ineffective assistance of counsel as related to counsel's alleged failure to file a direct appeal be denied. On September 24, 2007, defendant filed timely objections to the Supplemental Report and Recommendation.

Having made an independent examination of the record in this case and having examined the Report and Recommendation of the Magistrate Judge, the undersigned United States District Judge hereby sustains defendant's objections set forth under paragraph 1. and paragraph 3. The remainder of defendant's objections are clarifications of testimony elicited at an evidentiary

hearing held before the Magistrate Judge on September 6, 2007, or constitute additional argument as to why defendant's testimony should be deemed more credible than the testimony of defendant's trial counsel. The undersigned OVERRULES these "objections" made by defendant, and ADOPTS the Magistrate Judge's Report and Recommendation and Supplemental Report and Recommendation. Accordingly, the motion to vacate, set aside or correct sentence filed by defendant is, in all things, DENIED.

IT IS SO ORDERED.

ENTERED this 6 day of September 2007.



MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE